

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: George C. SCHEDIVY

Examiner: Brian P. Yenke

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For: HOOD FOR VEHICLE SEAT HEADREST INCLUDING A VIDEO SYSTEM

AMENDED APPEAL BRIEF

Appeal from Group 2622

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I. INTRODUCTION

This Appeal is from a Final Office Action mailed on September 19, 2008 (hereinafter, referred to as the "Final Action") finally rejecting claims 1-2, 5-25, 27-28 and 38 of the above-identified application, and an Advisory Action mailed on December 1, 2008. Applicant commenced this Appeal by a Notice of Appeal dated January 20, 2009. An Appeal Brief is due on March 20, 2009. Accordingly, this Appeal Brief is being timely filed.

II. REAL PARTY IN INTEREST

The real party in interest for the above-identified application is Audiovox Corporation, the assignee of the entire right, title and interest in and to the subject application by virtue of an assignment of recorded in the U.S. Patent and Trademark Office at reel 014423 frame 0026.

III. RELATED APPEALS AND INTERFERENCES

There are no Appeals or Interferences known to Applicant, Applicant's representatives or the Assignee, which would directly affect or be indirectly affected by or have a bearing on the Board's decision in the pending Appeal.

IV. STATUS OF CLAIMS

Claims 1-2, 5-25, 27-28 and 38 are pending, stand rejected and are under appeal. The claims on appeal are set forth in the attached Appendix.

Claims 1, 15 and 38 are the independent claims on appeal.

Claims 2, 5-7 and 10-14 directly depend from independent claim 1. Claims 8 and 9 depend from claim 7.

Claims 15-17, 20-25 and 27-28 directly depend from independent claim 15. Claims 18 and 19 depend from claim 17.

Claims 3-4, 26 and 29-37 have been canceled without prejudice.

V. STATUS OF AMENDMENTS

A Response to the Final Action was filed on November 19, 2008. No after final claim amendments were submitted with the November 19, 2008 Response.

VI. SUMMARY OF THE CLAIMED SUBJECT MATTER

In general, the claimed subject matter relates to a video system, and more particularly, to a video system including a hood sized for fitting over a vehicle seat headrest, wherein the hood includes a media player and a display.

A. Embodiment Of Independent Claim 1

For purposes of illustration, the embodiment of claim 1 will be discussed hereafter with reference to, for example, Figures 6A, 6C, 7A, and 7C, and the descriptions in Applicant's specification at page 11, lines 6 – 21 and page 13, lines 16-24. It is to be understood that the

following description of the claimed embodiment and reference to the drawings are for illustrative purposes to provide some context for the claimed embodiments, but nothing herein shall be construed as placing any limitation on the claimed embodiments.

According to claim 1, for example, a hood 400 or 500 is sized for fitting over a vehicle seat headrest and a base portion 410 or 510 is attached to the hood, wherein the hood includes a display 420 or 520 connectable to a media player 700 or 800. The display and the media player are mounted to a door 402 or 502 pivotally attached to the base portion, wherein the display is mounted on an outside surface of the door, and the media player is mounted on an inside surface of the door opposite the outside surface.

B. Embodiment Of Independent Claim 15

For purposes of illustration, the embodiment of claim 15 will be discussed hereafter with reference to, for example, Figures 6A, 6C, 7A, and 7C, and the descriptions in Applicant's specification at page 11, lines 6 – 21 and page 13, lines 16-24. It is to be understood that the following description of the claimed embodiment and reference to the drawings are for illustrative purposes to provide some context for the claimed embodiments, but nothing herein shall be construed as placing any limitation on the claimed embodiment.

According to claim 15, for example, a hood 400 or 500 is sized for fitting over a vehicle seat headrest and a base portion 410 or 510 is attached to the hood, wherein the hood includes a display 420 or 520 and a media player 700 or 800. The display and the media player are mounted to a door 402 or 502 pivotally attached to the base portion, wherein the display is mounted on an outside surface of the door, and the media player is mounted on an inside surface of the door opposite the outside surface.

C. Embodiment Of Independent Claim 38

For purposes of illustration, the embodiment of claim 38 will be discussed hereafter with reference to, for example, Figures 6A, 6C, 7A, and 7C, and the descriptions in Applicant's specification at page 11, lines 6 – 21 and page 13, lines 16-24. It is to be understood that the following description of the claimed embodiments and reference to the drawings are for illustrative purposes to provide some context for the claimed embodiment, but nothing herein shall be construed as placing any limitation on the claimed embodiment.

According to claim 38, for example, a hood 400 or 500 is sized for fitting over a vehicle seat headrest, wherein the hood includes a display 420 or 520 connectable to a media player 700 or 800, and includes a door 402 or 502 pivotable with respect to the hood. The display 420 or 520 is positioned on an outside surface of the door, and the media player is positioned on an inside surface of the door opposite the outside surface.

D. Embodiments Of Dependent Claims

1. Claim 6

Claim 6 recites that the video system comprises a docking station attached to the hood, wherein the base portion is selectively coupled to and selectively decoupled from the docking station.

More specifically, by way of example, Applicant's disclosure describes and shows the docking station 825, wherein the base portion 810 is selectively coupled to and selectively decoupled from the docking station. *See* Applicant's disclosure, Figures 10A, 10B, 11A, 11B, 12A and 12B, and the descriptions in Applicant's specification at page 18, line 3 – page 20, line 12.

2. Claim 27

Claim 27 recites that the display is coupled to the media player through an opening in the

door.

More specifically, by way of example, Applicant's disclosure describes that the connection between the display 420 or 520 and the entertainment unit 700 or 800 may be achieved through appropriately positioned openings in the door 402 or 502, or that the door includes an open center section accommodating the display and entertainment unit coupled to the rear of the display. *See* Applicant's disclosure, page 11, lines 9-15 and page 13, lines 16 - 24.

VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(1) Claims 1-2, 5-25, 27-28 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Pub. No. 2003/0226148 ("Ferguson") in view of U.S. Patent Application Pub. No. 2002/0149708 ("Nagata"), U.S. Patent No. 6,724,317 ("Kitano") and U.S. Patent No. 6,865,075 ("Oakley").

VIII. ARGUMENT

A. Rejection Of Claims 1-2, 5-25, 27-28 and 38 Under 35 U.S.C. § 103(a) As Being Unpatentable Over Ferguson, Nagata, Kitano and Oakley

To establish a *prima facie* case of obviousness, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974), and "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970). "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would

have found the claimed invention to have been obvious in light of the teachings of the references."

Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

1. The Cited References Fail To Disclose A Display Mounted On An Outside Surface Of The Pivoting Door, And The Media Player Mounted On An Inside Surface Of The Door Opposite The Outside Surface

a. The references, when taken alone or in combination, lack the claimed features

Appellant respectfully submits that at the very least, the Examiner fails to support a *prima facie* case of obviousness against claims 1, 15 and 38. In particular, Appellant maintains that the combination of the cited references fails to disclose the display that is mounted on/positioned on an outside surface of the pivoting door, and the media player that is mounted on/positioned on an inside surface of the door opposite the outside surface, as essentially recited in claims 1, 15 and 38.

In rejecting the claims, the Examiner maintains that "although Ferguson discloses a system where the media device is below the display, the integration of the display/media device is conventional in the art, based upon designers' needs/size/requirements." In support of this statement, the Examiner relies on Nagata, stating that Nagata discloses "a media device where the DVD/media player 6 (Fig. 6) is physically behind the display 2." The Examiner further relies on Kitano as disclosing "display/media devices/players . . . mounted to a door/pivoting device", and on Oakley as disclosing a display screen that is viewable in the closed/stowed position. See Final Action at 2-3. In the Advisory Action, the Examiner also states that Oakley discloses a display that may be in front of or behind a media device. See December 1, 2008 Advisory Action Continuation Sheet.

Applicant submits that the Examiner's reliance on Nagata, Kitano and Oakley is misplaced.

In contrast to the Examiner's conclusions, Nagata, Kitano and Oakley fail to disclose or suggest the display that is mounted on an outside surface of the pivoting door, and the media player that is mounted on an inside surface of the door opposite the outside surface, as essentially recited in claims 1, 15 and 38.

In Nagata, the display 2 and the video reproducing unit 6 are positioned around a common shaft 33, which supports the rotation of each of the display and the video reproducing unit. *See* Nagata, ¶ 0098. In contrast, in the claimed embodiments, the display and the media player are mounted to/positioned on opposite sides of the door, so that the display and the media player always pivot in unison with each other. Whereas, in Nagata, as evidenced by Figs. 5 and 6, the display unit 2 pivots independent of and with respect to the video reproducing unit 6 because there is no pivoting door to which both the display monitor 2 and video reproducing unit 6 are mounted. Accordingly, for at least this reason, Nagata does not disclose or teach the claimed display that is mounted on an outside surface of the pivoting door, and the media player that is mounted on an inside surface of the door opposite the outside surface.

In Kitano, the display panel 14 pivots by itself and does not include a media player mounted on an opposite surface of the display panel 14. Indeed, col. 5, lines 50-56 of Kitano generally mention that the display 14 is connected to a DVD player or DVD changer 19, but are silent as to the location of the DVD player/changer 19. Accordingly, in contrast to the Examiner's conclusion, there is no teaching or suggestion in Kitano of "display/media devices/players . . . mounted to a door/pivoting device." At most, Kitano discloses a display panel that rotates.

Further, Oakley fails to cure the deficiencies in Ferguson, Nagata and Kitano. Indeed, referring to Fig. 12 of Oakley, Oakley merely discloses a display 1214 that is pivotable to different

configurations depending on a user's needs. Moreover, in contrast to the claimed embodiments, the display 1214 of Oakley is not mounted on an outside surface of a pivoting door having a media player mounted on an inside surface thereof.

Accordingly, for at least these reasons, the cited references, when taken alone, or in combination, do not disclose or teach the claimed display that is mounted/positioned on an outside surface of the pivoting door, and the media player that is mounted/positioned on an inside surface of the door opposite the outside surface.

b. Examiner's conclusions of obviousness are based on hindsight

Without the benefit of hindsight, one of ordinary skill in the art would not develop the claimed display that is mounted/positioned on an outside surface of the pivoting door, and the media player that is mounted/positioned on an inside surface of the door opposite the outside surface.

In the Final Action, the Examiner states that "the integration of the display/media device is conventional in the art, based upon designers' needs/size/requirements." See Final Action at 2. While a judgment on obviousness is in a sense a reconstruction based upon hindsight reasoning, an obviousness determination must take into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and must not include knowledge gleaned only from applicant's disclosure.

As argued above, the Examiner's reliance on Nagata, Kitano and Oakley does not adequately demonstrate that one of ordinary skill in the art in view of these references would have developed the claimed display that is mounted/positioned on an outside surface of the pivoting door, and the media player that is mounted/positioned on an inside surface of the door opposite the outside surface. Indeed, each of Nagata, Kitano and Oakely fail to cure the deficiencies in Ferguson because they lack

the essential element of door including a display and media player respectively positioned on outside and inside surfaces thereof. Accordingly, it is apparent that what is lacking in the cited references is only supplied by Applicant's disclosure.

Therefore, the Examiner's judgment of obviousness does not take into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and relies on improper hindsight.

2. There Is No Motivation To Modify Ferguson To Include A Display Mounted On An Outside Surface Of The Pivoting Door, And The Media Player Mounted On An Inside Surface Of The Door Opposite The Outside Surface

There is no motivation to modify Ferguson in the manner suggested by the Examiner for at least the reasons that (1) the proposed modification to Ferguson would render the device unsatisfactory for the intended purpose of using a freely changeable and removable video reproducer; and (2) the proposed modification would change the principle of operation of Ferguson.

*a. The proposed modification to Ferguson would render
the Ferguson device unsatisfactory for its intended purpose*

Modifying Ferguson to include the display that is mounted on an outside surface of the pivoting door, and the media player that is mounted on an inside surface of the door opposite the outside surface would render the Ferguson device unsatisfactory for its intended purpose of using a video reproducer that can be freely changed and removed.

"If [a] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." M.P.E.P. § 2143.01 (citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)).

Ferguson provides a pouch or pocket 15 in which a video reproducer 20, such as a DVD player can be inserted and held. *See* Ferguson, Figs. 1a and 1b, and ¶ 0025. The pouch is designed to accept any video reproducer that would fit therein, and is not restricted to any particular type of video reproducer, so long as it can be connected to the video monitor 13.

If the Ferguson device were modified in the manner suggested by the Examiner to include the display that is mounted on an outside surface of the pivoting door, and the media player that is mounted on an inside surface of the door opposite the outside surface, the Ferguson device would no longer be able to use a video reproducer capable of being freely changed and removed. Instead, the device would be limited to the mounted media player.

Accordingly, modifying Ferguson to meet the claimed embodiments would render Ferguson unsatisfactory for its intended purpose of using a video reproducer that can be freely changed and removed.

As such, for at least this reason, Appellant submits that there is no suggestion or motivation to make the proposed modification.

*b. The proposed modification to Ferguson would change
 the principle of operation of the Ferguson device*

There is no motivation to modify Ferguson to include the display that is mounted on an outside surface of the pivoting door, and the media player that is mounted on an inside surface of the door opposite the outside surface. Such a modification would change the principle of operation of the Ferguson device.

If a proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, such that the “suggested combination of

references would require a substantial reconstruction and redesign of the elements shown in the primary reference”, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 813, 123 USPQ 349, 352 (CCPA 1959); *see* MPEP § 2143.01.

Modifying Ferguson to include a display and media player respectively positioned on outside and inside surfaces of a door would change Ferguson’s principle of operation by eliminating the ability to freely remove and substitute one video reproducer for another.

Further, modifying Ferguson as suggested by the Examiner would require substantial reconstruction and redesign of the monitor 13 and how it is mounted to the cover 12.

Accordingly, modifying Ferguson to meet the claimed embodiments would change the principle of operation of Ferguson.

As such, for at least this reason, Appellant submits that there is no suggestion or motivation to make the proposed modification.

Therefore, Appellant submits that the Examiner’s conclusions of obviousness represent clear error in the application of section 103.

For the foregoing reasons, Appellant requests that the Board reverse the Examiner’s rejection of claims 1, 15 and 38 under 35 U.S.C. §103(a).

For at least the reason that claims 2 and 5-14 depend from claim 1, and claims 16-25, 27 and 28 depend from claim 15, Appellants also request that the Board reverse the Examiner’s rejection of claims 2, 5-14, 16-25, 27 and 28.

3. The Cited References Fail To Disclose The Elements Of Claims 6 And 27 And The Examiner Has Failed To Make A *Prima Facie* Case Of Obviousness of Same

a. Claim 6 is patentable in its own right

While claim 6 is patentable for at least the reason of its dependency on claim 1, Appellant also submits that the Examiner has failed to show *prima facie* obviousness of claim 6 on its own.

Claim 6 recites that the video system includes a docking station attached to the hood, wherein the base portion is selectively coupled to the docking station, and wherein the base portion can be selectively decoupled from the docking station.

For example, Applicant's disclosure describes and shows that docking station 825, wherein the base portion 810 is selectively coupled to and selectively decoupled from the docking station. *See* Applicant's disclosure, Figures 10A, 10B, 11A, 11B, 12A and 12B, and the descriptions in Applicant's specification at page 18, line 3 – page 20, line 12.

In the Final Action, the Examiner states that "Ferguson discloses a plurality of media components (Fig. 3b) connected to the cover/hood, wherein the DVD appears to be stationary, wherein the claimed docking station, base portion are met by the above elements."

Applicant submits that the Examiner's analysis does not establish a *prima facie* case of obviousness of claim 6.

M.P.E.P. § 2142 states that:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there

must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

The Examiner's general reference to Fig. 3b, and the conclusory statements that the claimed elements "are met by the above elements" does not rise to the level of an explicit analysis or clear articulated reasoning supporting obviousness. Indeed, there does not appear to be any correlation between the elements in Fig. 3b and the claimed base station that is selectively coupled to and decoupled from a docking station.

Accordingly, Appellants submit that the Examiner has failed to prove *prima facie* obviousness of claim 6.

b. Claim 27 is patentable in its own right

While claim 27 is patentable for at least the reason of its dependency on claim 15, Appellant also submits that the Examiner has failed to show *prima facie* obviousness of claim 27 on its own.

Claim 27 recites that the display is coupled to the media player through an opening in the door.

In the Final Action, the Examiner states that "[i]n considering claims 27-28, Kitano discloses the concept of when the door is opened (i.e., display is pivoted/rotated accordingly) access to the media device is provided, wherein the user has access to media control (i.e. loading point)."

As the rejection does not in any way appear to be directed to the language of claim 27, Applicant submits that the rejection of claim 27 does not rise to the level of an explicit analysis or clear articulated reasoning supporting obviousness.

Accordingly, Appellants submit that the Examiner has failed to prove *prima facie*

obviousness of claim 27.

As such, Appellants respectfully submit that the Examiner committed clear error when rejecting claims 1-2, 5-25, 27-28 and 38 under 35 U.S.C. § 103(a) in view of Ferguson, Nagata, Kitano and Oakley.

Therefore, for at least the foregoing reasons, Appellants request that the Board reverse the Examiner's rejections of claims 1-30 under 35 U.S.C. § 103(a).

B. CONCLUSION

Accordingly, for at least the reasons set forth above, claims 1-2, 5-25, 27-28 and 38 are patentable.

Therefore, it is respectfully requested that the Board reverse all claim rejections under 35 U.S.C. § 103(a).

Respectfully submitted,



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CLAIMS APPENDIX

1. A video system comprising:

a hood sized for fitting over a vehicle seat headrest, wherein the hood includes a display connectable to a media player, wherein the media player is located in the hood behind the display, and wherein the hood includes an opening through which the vehicle seat headrest is inserted into the hood, and the size of the opening is reduced to secure the hood to the headrest;

a base portion attached to the hood; and

a door pivotally attached to the base portion, wherein the display and the media player are mounted to the door, the display being mounted on an outside surface of the door, and the media player being mounted on an inside surface of the door opposite the outside surface, wherein the door is pivoted to an open position to provide access to a data media loading point on the media player and pivoted to a closed position to allow a user to view a video program on the display, wherein controls for controlling functions of the media player are positioned on the door and accessible by the user when the door is in the closed position.

2. The video system of claim 1, further comprising a frame for mounting the display, wherein the frame is attached to the hood.

5. The video system of claim 1, wherein the media player is one of a slot-type and a clamshell-type device.

6. The video system of claim 1, further comprising:

a docking station attached to the hood, wherein

the base portion is selectively coupled to the docking station, and wherein the base portion can be selectively decoupled from the docking station.

7. The video system of claim 1, further comprising a wireless transmitter.

8. The video system of claim 7, wherein the wireless transmitter includes one of an optical transmitting device and an antenna.

9. The video system of claim 7, wherein the wireless transmitter transmits wireless signals on more than one channel.

10. The video system of claim 1, further comprising a cover for covering the display.

11. The video system of claim 1, further comprising a port for connecting to an external device.

12. The video system of claim 1, further comprising at least one controller for controlling functions of the display.

13. The video system of claim 1, wherein the display is connected to a power source of the vehicle.

14. The video system of claim 1, wherein the hood includes a drawstring to reduce the size of the opening for tightening the hood to the vehicle seat headrest.

15. A video system comprising:

a hood sized for fitting over a vehicle seat headrest, wherein the hood includes a display and a media player located behind the display, and wherein the hood includes an opening through which the vehicle seat headrest is inserted into the hood, and the size of the opening is reduced to secure the hood to the headrest;

a base portion attached to the hood; and

a door pivotally attached to the base portion, wherein the display is mounted to the door and the media player mounted to the door, the display being mounted on an outside surface of the door, and the media player being mounted on an inside surface of the door opposite the outside surface, wherein the door is pivoted to an open position to provide access to a data media loading point on the media player, and pivoted to a closed position to allow a user to view a video program on the display, wherein controls for controlling functions of the media player are positioned on the door and accessible by the user when the door is in the closed position.

16. The video system of claim 15, wherein the media player is one of a slot-type and a clamshell-type device.

17. The video system of claim 15, further comprising a wireless transmitter.

18. The video system of claim 17, wherein the wireless transmitter includes one of an optical transmitting device and an antenna.
19. The video system of claim 17, wherein the wireless transmitter transmits wireless signals on more than one channel.
20. The video system of claim 15, further comprising a cover for covering the display.
21. The video system of claim 15, further comprising a port for connecting to an external device.
22. The video system of claim 15, further comprising at least one controller for controlling functions of the display.
23. The video system of claim 15, wherein the display and the media player are connected to a power source of the vehicle.
24. The video system of claim 15, further comprising at least one controller for controlling functions of the media player.
25. The video system of claim 15, wherein the hood includes a drawstring to reduce the size of the opening for tightening the hood to the vehicle seat headrest.

27. The video system of claim 15, wherein the display is coupled to the media player through an opening in the door.

28. The video system of claim 15, wherein the door pivots in a range of angles including approximately 0° to 180° with respect to the base portion.

38. A video system comprising:

a hood sized for fitting over a vehicle seat headrest, wherein the hood includes a display connectable to a media player, wherein the media player is located in the hood behind the display, and wherein the hood includes an opening through which the vehicle seat headrest is inserted into the hood, and the size of the opening is reduced to secure the hood to the headrest; and

a door pivotable with respect to the hood to open and closed positions, wherein the display and controls for controlling functions of the media player are positioned on an outside surface of the door and the media player is positioned on an inside surface of the door opposite the outside surface, wherein, when the door is in the closed position, the display faces a user to allow the user to view a video program on the display, and the controls are accessible by the user, and wherein, when the door is in the open position, a data media loading point on the media player is accessible by the user.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.